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BANGALORE, SATURDAY, APRIL 29, 1950.

PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 325—Legis. 2-50-6, dated Bangalore, 26th April 1950.

Ordered that the accompanying Administration of Evacuee Property Act, 1950, (XXXI of 1950), published in the *Gazette of India*, dated the 18th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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Received assent on 17th April 1950.

ACT No. XXXI of 1950.

THE ADMINISTRATION OF EVACUEE PROPERTY ACT, 1950.

[AS PASSED BY PARLIAMENT.]

AN

ACT

to provide for the administration of evacuee property and for certain matters connected therewith.

BE it enacted by Parliament as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title and extent.*—(1) This Act may be called the Administration of Evacuee Property Act, 1950.

(2) It extends to the whole of India except the States of Assam, West Bengal, Tripura, Manipur and Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "allotment" means the grant by a person duly authorised in this behalf of a right of use or occupation of any immovable evacuee property to any other person, but does not include a grant by way of lease ;

(*b*) "Custodian-General" means the Custodian-General of Evacuee Property in India appointed by the Central Government under section 5 ;

(*c*) "Custodian" means the Custodian for the State, and includes any Additional, Deputy or Assistant Custodian of evacuee property appointed in that State ;

(*d*) "evacuee" means any person,—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947, left, any place in a State for any place outside the territories now forming part of India, or

(*ii*) who is resident in any place now forming part of Pakistan and who for that reason is unable to occupy, supervise or manage in person his property in any part of the territories to which this Act extends, or whose property in any part of the said territories has ceased to be occupied, supervised or managed by any person or is being occupied, supervised or managed by an unauthorised person, or

(*iii*) who has, after the 14th day of August, 1947, obtained, otherwise than by way of purchase or exchange, any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan ;

Explanation.—For the purposes of sub-clause (*iii*), the acquisition of any right to, interest in or benefit from any such property as is referred to in that sub-clause by a firm, private limited company or trust of which any person or any member of the family of such person wholly dependent on him for the ordinary necessaries of life is a partner, member or beneficiary, as the case may be, shall be deemed to be an acquisition by that person within the meaning of that sub-clause.

(*e*) "intending evacuee" means any person who, after the 14th day of the August, 1947,—

(*i*) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money in accordance with the rules made in this behalf by the Central Government, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this sub-clause, or

(*ii*) has acquired, if the acquisition has been made in person, by way of purchase or exchange, or if the acquisition has been made by or through a member of his family, in any manner whatsoever, any right to, interest in, or benefit from any property, which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan,

Explanation.—For the purposes of sub-clause (*ii*), the acquisition of any right to, interest in or benefit from any such property as is referred to in that sub-clause by a firm, private limited company or trust of which any person is a partner, member or beneficiary, as the case may be, shall be deemed to be an acquisition by that person within the meaning of that sub-clause; or

(*iii*) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

and includes any person against whom an intention to settle in Pakistan is established from his conduct or from documentary evidence.

(*f*) "evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property—

(1) which has been obtained by any person from an evacuee after the 14th day of August, 1947, by any mode of transfer, unless such transfer has been confirmed by the Custodian, or

(2) belonging to any person who, after the 18th day of October, 1949, has done or does any of the acts specified in clause (*e*) of section 2, or in which any such person has any right or interest, to the extent of such right or interest,

but does not include—

(*i*) any ornament and any wearing apparel, cooking vessels or other household effects in the immediate possession of an evacuee;

(*ii*) any property belonging to a joint-stock company, the registered office of which was situated before the 15th day of August, 1947, in any place now forming part of Pakistan and continues to be so situated after the said date;

(*g*) "member of the family" means any member of the family of any person who is wholly dependent upon the earnings of such person for the provision of the ordinary necessaries of life or who shares with such person in the ordinary expenses of the household to which they jointly belong or who owns property or carries on business jointly with such person;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "property" means property of any kind, and includes any right or interest in such property;

(*j*) "unauthorised person" means any person (whether duly empowered in this behalf by the evacuee or otherwise) who, after the 14th day of August, 1947, has been occupying, supervising or managing the property of an evacuee without the approval of the Custodian.

3. *References to enactments not in force in Part B States.*—In the applicatiod of this Act to any Part B State, unless the context otherwise requires, references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding enactment, if any, in force in that Part B State.

4. *Act to override other laws.*—The provisions of this Act and of the rules ant orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrumenn having effect by virtue of any such law.

CHAPTER II.

EVACUEE PROPERTY AND VESTING THEREOF IN THE CUSTODIAN.

5. *Appointment of Custodian-General, Deputy Custodians-General, etc.*—The Central Government may, by notification in the Official Gazette, appoint a Custodian-General and as many Deputy and Assistant Custodians-General as may be necessary for the purpose of discharging the duties imposed upon the Custodian-General and the Deputy and Assistant Custodians-General by or under this Act.

6. *Appointment of Custodians, etc.*—(1) The State Government may, in consul tation with the Custodian-General, by notification in the Official Gazette, appoin for the State a Custodian, and as many Additional, Deputy or Assistant Custodians of evacuee property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act.

(2) Subject to the provisions of this Act, all Custodians, Additional, Deputy or Assistant Custodians of evacuee property shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian-General.

(3) Subject to the provisions of sub-section (2), Additional, Deputy and Assistant Custodians shall discharge the duties imposed on them by or under

this Act under the general superintendence and control of the Custodian for the State, but the State Government may, by general or special order, provide for the distribution of work among them.

7. *Notification of evacuee property.*—(1) Where the Custodian is of opinion that any property is evacuee property within the meaning of this Act, he may, after causing notice thereof to be given in such manner as may be prescribed to the persons interested, and after holding such inquiry into the matter as the circumstances of the case permit, pass an order declaring any such property to be evacuee property.

(2) Where a notice has been issued under sub-section (1) in respect of any property, such property shall, pending the determination of the question whether it is evacuee property or otherwise, be incapable of being transferred of charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

(3) The Custodian shall, from time to time, notify, either by publication in the Official Gazette or in such other manner as may be prescribed, all properties declared by him to be evacuee properties under sub-section (1).

8. *Vesting of evacuee property in the Custodian.*—(1) Any property declared to be evacuee property under section 7 shall be deemed to have vested in the Custodian for the State,—

(*a*) in the case of the property of an evacuee as defined in sub-clause (*i*) of clause (*d*) of section 2, from the date on which he leaves or left any place in a State for any place outside the territories now forming part of India ;

(*b*) in the case of the property of an evacuee as defined in sub-clause (*ii*) of clause (*d*) of section 2, from the 15th day of August, 1947 ; and

(*c*) in the case of any other property, from the date of the notice given under sub-section (1) of section 7 in respect thereof.

(2) Where immediately before the commencement of this Act, any property in a State had vested as evacuee property in any person exercising the powers of Custodian under any law repealed hereby, the property shall, on the commencement of this Act, be deemed to be evacuee property declared as such within the meaning of this Act and shall be deemed to have vested in the Custodian appointed or deemed to have been appointed for the State under this Act, and shall continue to so vest :

Provided that where at the commencement of this Act there is pending before the High Court, the Custodian or any other authority for or in any State any proceeding under section 8 or section 30 of the Administration of Evacuee Property Ordinance, 1949 (XII of 1949), or under any other corresponding law repealed by the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), then notwithstanding anything contained in this Act or in any other law for the time being in force, such proceeding shall be disposed of as if the definitions of 'evacuee property' and 'evacuee' contained in section 2 of this Act had become applicable thereto.

(3) Where any property in a State belonging to a joint-stock company had vested in any person exercising the powers of a Custodian under any law previously in force, then nothing contained in clause (*f*) of section 2 shall affect the operation of sub-section (2), but the State Government may, by notification in the Official Gazette, direct that the Custodian shall be divested of any such property in such manner and after such period as may be specified in the notification.

(4) Where after any evacuee property has vested in the Custodian any person is in possession thereof, he shall be deemed to be holding it on behalf of the Custodian and shall on demand surrender possession of it to the Custodian or to any other person duly authorised by him in this behalf.

9. *Power of Custodian to take possession of evacuee property vested in him.*—If any person in possession of any evacuee property refuses or fails on demand to surrender possession thereof to the Custodian or to any person duly authorised by him in this behalf, the Custodian may use or cause to be used such force as may be necessary for taking possession of such property and may, for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or any door or do any other act necessary for the said purpose.

10. *Powers and duties of the Custodian generally.*—(1) Subject to the provisions of any rules that may be made in this bealf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act and may, for such any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(a) carry on the business of the evacuee;

(b) appoint a manager for the property of the evacuee or for carrying on any business or undertaking of the evacuee and authorise the manager to exercise any of the powers of the Custodian under this section;

(c) enter, or authorise any other person to enter, any land or premises to inspect any evacuee property;

(d) take all such measures as may be necessary to keep any evacuee property in good repair;

(e) complete any building which has vested in him and which requires to be completed;

(f) require any person, notwithstanding anything to the contrary contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Custodian considers necessary for the discharge of his duties under this Act;

(g) require any banking company to furnish such information as the Custodian may require with respect to remittances made after the 14th day of August, 1947, to any such area outside India as may be specified by the Custodian, either generally, or with reference to any person or class of persons;

(h) search any building or place in which the Custodian has reason to believe that any evacuee property or any document tending to show that any person is an evacuee or that any property is evacuee property is being kept or concealed and take possession thereof;

(*i*) take such action as may be necessary for the recovery of any debt due to the evacuee;

(*j*) institute, defend or continue any legal proceeding in any civil or revenue court on behalf of the evacuee or refer any dispute between the evacuee and any other person to arbitration or compromise any claims, debts or liabilities on behalf of the evacuee;

(*k*) raise on the security of the evacuee property such loans as may be necessary;

(*l*) in any case where the evacuee property which has vested in the Custodian consists of a share or shares in a company, exercise, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in the articles of association of the company, the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provisions of the Indian Companies Act, 1913, or the articles of association of the company or in any other matter as the evacuee shareholder himself could have done had he been present, although the name of the Custodian does not appear in the register of members of the company;

(*m*) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person;

(*n*) pay to the evacuee, or to any member of his family or to any other person as in the opinion of the Custodian is entitled thereto, any sums of money out of the funds in his possession;

(*o*) transfer in any manner whatsoever any evacuee property, notwithstanding anything to the contrary contained in any law or agreement relating thereto:

Provided that the Custodian shall not sell any immovable property or any business or other undertaking of the evacuee, except with the previous approval of the Custodian-General;

(*p*) invest any money held by him in any of the securities approved by the Central Government or in the prescribed manner;

(*q*) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as he thinks fit:

Provided that the Custodian shall not delegate any of his functions under clause (*g*) or clause (*h*) to any officer or person below the rank of an Assistant Custodian.

11. *Special provisions with respect to certain trust properties.*—(*1*) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, the property shall remain vested in the Custodian only until such time as fresh trustees are appointed in the manner provided by law, and pending the appointment of fresh trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.

Explanation.—In this sub-section 'property in trust for a public purpose of a religious or charitable nature' includes a public *wakf* and the expression 'trustee' includes a *mutawalli* of such *wakf*.

(2) In respect of any *Wakf-alal-aulad*,—

(a) where the *mutawalli* is an evacuee, the property forming the subject-matter of the *wakf* shall vest in the Custodian subject to the rights of the beneficiaries under the *wakf*, if any, who are not evacuees;

(b) where not all the beneficiaries are evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian.

12. *Power to vary or cancel leases or allotments of evacuee property.*—(1) Notwithstanding anything contained in any other law for the time being in force, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any evacuee property is held or occupied by a person, where such allotment, lease or agreement has been granted or entered into after the 14th day of August, 1947.

(2) Where by reason of any action taken under sub-section (1), any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property to the Custodian or to any person duly authorised by him in this behalf.

(3) If any person fails to surrender possession of any property on demand under sub-section (2), the Custodian may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in section 9.

13. *Payments to Custodian to be valid discharge.*—(1) Any amount due to any evacuee in respect of any property which has vested in the Custodian or in respect of any transaction entered into by the evacuee, shall be paid to the Custodian by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Custodian to enforce such obligation against any such person.

14. *Recouping of expenditure by Custodian.*—Any expenditure incurred by the Custodian in the exercise of any power conferred by or under this Act shall, in relation to any evacuee property in respect of which it has been incurred, be a charge on such property and shall, subject to the provisions of section 51, have priority over all other charges on the property, and such expenditure may be met or recouped by the Custodian out of the income accruing from such property or the sale proceeds thereof.

15. *Maintenance of accounts by Custodian.*—(1) The Custodian shall maintain a separate account of the property of each evacuee-possession whereof has been taken by him, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescribed.

(3) The State Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

16. *Restoration of property.*—(*1*) The Custodian may, on application made to him in this behalf in writing by an evacuee or any person claiming to be the heir of an evacuee, restore, subject to such terms and conditions as he may think fit to impose, the evacuee property to which the evacuee or other person would have been entitled if this Act were not in force :

Provided that the applicant produces in support of his application a certificate from the Central Government, or from any person authorised by it in this behalf, to the effect that the evacuee property may be so restored if the applicant is otherwise entitled thereto.

(*2*) On receipt of an application under sub-section (*1*), the Custodian shall cause public notice thereof to be given in the prescribed manner and, after holding a summary inquiry into the claim in such manner as may be prescribed, may—

(*a*) make a formal order declaring that the property shall be restored to the applicant ; or

(*b*) reject the application ; or

(*c*) refer the applicant to a civil court for the determination of his claim and title to the property :

Provided that no order for restoration shall be made under this section, unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.

(*3*) Upon the restoration of the property to the evacuee or to the heir, as the case may be, the Custodian shall stand absolved of all responsibilites in respect of the property so restored, but such restoration shall not prejudice the rights, if any, in respect of the property which any other person may be entitled to enforce against the person to whom the property has been so restored :

Provided that every lease granted in respect of the property by or on behalf of the Custodian shall have effect against the person to whom restoration is made until such lease is determined by lapse of time or by operation of law.

(*4*) The Custodian shall, on demand, furnish to the evacuee or to the heir, as the case may be, a statement containing an abstract of the account of the income received and expenditure incurred in respect of the property.

CHAPTER III

CERTAIN CONSEQUENCES OF PROPERTY VESTING IN CUSTODIAN

17. *Exemption from attachment, sale, etc.*—(*1*) Save as otherwise expressly provided in this Act, no property which has vested in the Custodian shall be liable to attachment, distress or sale in execution of an order of a court or of any other authority, and no injunction in respect of any such property shall be granted by any court or other authority.

(*2*) Save as otherwise expressly provided in this Act, any attachment or injunction subsisting on the commencement of this Act in respect of any evacuee property which has vested in the Custodian shall cease to have effect on such commencement, and any transfer of evacuee property under orders of a court or any other authority made after the 1st day of March, 1947, shall be set aside, if

an application is made to such court or authority by or at the instance of the Custodian within six months from the commencement of this Act.

18. *Occupancy or tenancy right not to be extinguished.*—Nothing contained in any other law for the time being in force shall be deemed to extinguish the right of occupancy in any land or the site of any house or other building of an evacuee which has vested in the Custodian and, notwithstanding anything contained in any such law, neither the evacuee nor the Custodian, whether as an occupancy tenant or as a tenant for a fixed term of any land or the site of any house or other building, shall be liable to be ejected or deemed to have become so liable on any ground whatsoever for any default of the Custodian.

CHAPTER IV

PROPERTY OF INTENDING EVACUEES

19. *Declaration of person as intending evacuee.*—(*1*) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating the reasons therefor) either declaring such person to be an intending evacuee or closing the case.

(*2*) Any declaration made under sub-section (*1*) shall be published in the Official Gazette.

(*3*) The Custodian may, pending determination of the question whether any person is an intending evacuee or otherwise, attach in the prescribed manner any property in the State in which such person has a right or interest and during the pendency of such attachment, the property shall be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

20. *Consequences of declaration that a person is an intending evacuee.*—No person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, shall transfer in any manner whatsoever any immovable property, in which he has any right or interest, situated in any part of the territories to which this Act extends, except with the previous approval of the Custodian, and any transfer made in contravention of the provisions of this section shall be void and of no effect.

21. *Powers of Custodian generally in respect of property of intending evacuees.*—For the purposes of preserving any property in which any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has any right or interest, the Custodian may,—

(*a*) by order in writing, require any such person to furnish such returns accounts or other information in relation to any such property and to produce such documents in his possession as the Custodian may require;

(*b*) inspect the books of account or other documents maintained by or in the possession of such person;

(*c*) pass such orders or direct such action to be taken in relation to any such property as may be considered by him to be necessary;

(*d*) by order in writing, prohibit the transfer to Pakistan of any sum of money belonging to any such person or permit such transfer subject to such conditions and restrictions as the Custodian may think fit to impose.

22. *Declaration of property of intending evacuee as evacuee property in certain cases.*—If the Custodian is satisfied :—

(*a*) that any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee, has made a transfer of any property in contravention of section 20, or has failed to comply with any order made under clause (*c*) or clause (*d*) of section 21 ; or

(*b*) after such enquiry as may be prescribed, that the circumstances relating to any person, in respect of whom a declaration has been so made on the ground that after the 14th day of August, 1947, and before the 18th day of October, 1949, he had done any of the acts specified in sub-clauses (*i*) to (*iii*) of clause (*e*) of section 2, are such as may be prescribed as constituting a preparation for his migrating to Pakistan,

the Custodian may declare any property situated in the State in which such person has any right or interest to be evacuee property, and on the issue of such notification any property specified in the notification shall be deemed to be evacuee property which has vested in the Custodian within the meaning of this Act.

Explanation.—The following shall be deemed to be some of the circumstances prescribed under clause (*b*), namely—

(*i*) the transfer to Pakistan by any person referred to in that clause of a substantial portion of his assets situated in any part of the territories to which this Act extends, or

(*ii*) the acquisition of, or the declaration of an intention to acquire, Pakistan nationality by any such person.

23. *Intending evacuee acquiring evacuee or abandoned property in Pakistan for inadequate consideration to make good the deficiency.*—(*1*) Where any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has either personally or through any other agency required, whether before or after the commencement of this Act, any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan for a consideration which, in the opinion of the Custodian, is neither reasonable nor adequate, the Custodian may, after notice to such person and after affording him a reasonable opportunity of being heard and after holding such inquiry as the circumstances of the case permit, determine, by order in writing, the amount, if any, by which the consideration, in his opinion, falls short of the real value of the property so acquired, and require such person to pay the amount to the Custodian within such time as may be specified in the order.

(*2*) If the amount is not paid within the time specified, or within such further time as the Custodian may allow, the Custodian may take possession of so much of the property of such intending evacuee as would be sufficient to cover the amount in the case of movable property, or as would afford a reasonable security for the recovery of the amount in the case of immovable property.

(3) The Custodian may, for the purpose of realising any amount payable by such intending evacuee under the provisions of this section, transfer in any manner whatsoever any immovable property which has been taken possession of by him under sub-section (2).

CHAPTER V.

APPEALS, REVIEW AND REVISION.

24. *Appeals from orders vnder sections 7, 16, 19 and 40.*—(1) Any person aggrieved by an order made under section 7, section 16, section 19 or section 40 may prefer an appeal in such manner and within such time as may be prescribed,—

(a) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian;

(b) to the Custodian-General, where the original order has been passed by the Custodian, an Additional Custodian or an Authorised Deputy Custodian:

Provided that where the appeal is preferred on the ground that the person aggrieved is not an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is not evacuee property within the meaning of sub-clause (*2*) of clause (*f*) of section 2, the appeal shall be preferred in the manner prescribed in section 25.

(2) The Custodian to whom an appeal is preferred under clause (*a*) of sub-section (*1*) may dispose of it himself or may make it over for disposal to an Additional Custodian or to a Deputy Custodian authorised by the Custodian in writing in this behalf (in this Chapter referred to as the Authorised Deputy Custodian):

Provided that no appeal from an order of a Deputy Custodian shall be made over for disposal to the Authorised Deputy Custodian.

25. *Appeals from other orders.*—(1) Any person aggrieved by an order,—

(a) under section 7 declaring his property as evacuee property on the ground that he is an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is evacuee property within the meaning of sub-clause (*2*) of clause (*f*) of section 2, or

(b) under section 22 declaring any property of an intending evacuee to be evacuee property,

may prefer an appeal, in such manner and within such time as may be prescribed, to the District Judge nominated in this behalf by the State Government.

(2) For the purpose of hearing any appeal under sub-section (*1*) the State Government shall nominate one or more District Judges and define the local limits of their jurisdiction.

26. *Powers of review or revision of Custodian, etc.*—(1) The Custodian, Additional Custodian or Authorised Deputy Custodian may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding under this Act which is pending before, or has been disposed of by an officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of any orders passed in the said proceeding, and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian, Additional Custodian or Authorised Deputy Custodian shall not pass an order under this sub-section revising or modifying any order prejudicial to any person without giving such person a reasonable opportunity of being heard:

Provided further that if one of the officers aforesaid takes action under this sub-section, it shall not be competent for any other officer to do so :

(2) The Custodian, Additional Custodian or Authorised Deputy Custodian (but not a Deputy or an Assistant Custodian) may, after giving notice to the parties concerned, review his own order.

(3) The Custodian, Additional Custodian or Authorised Deputy Custodian may from time to time, on application made to him in this behalf, review any declaration made by him in relation to any intending evacuee:

Provided that no such application shall be entertained unless—

(a) where an appeal or any other proceeding in respect of such declaration is pending under this Act, six months have elapsed from the date of the decision in such appeal or other proceeding, or

(b) where no appeal has been preferred, six months have elapsed from the date on which the time prescribed for the filing of an appeal under this Act in respect of such declaration would have expired.

Provided further that every declaration made in review under this sub-section shall not take effect unless confirmed by the Custodian-General.

27. *Powers of revision of Custodian-General.*— (1) The Custodian-General may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding in which any District Judge or Custodian has passed an order for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit.

Provided that the Custodian-General shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

(2) Notwithstanding anything contained in sub-section (1), where in respect of any proceeding called for under sub-section (1), the Custodian-General is of opinion that the District Judge is in error in holding any person not to be an evacuee or any property not to be evacuee property, he shall not pass any order in relation thereto but shall refer the matter, with his own opinion thereon, to the High Court to which the District Judge is otherwise subordinate.

(3) Any reference made under sub-section (2) shall be heard by a Bench of the High Court consisting of not less than two Judges, and the Custodian-General shall dispose of the proceeding in accordance with the decision of the High Court.

28. *Finality of orders under this Chapter.*—Save as otherwise expressly provided in this Chapter, every order made by the Custodian-General, District Judge, Custodian, Additional Custodian, Authorised Deputy Custodian, Deputy Custodian or Assistant Custodian shall be final and shall not be called in question in any Court by way of appeal or revision or in any original suit, application or execution proceeding.

CHAPTER VI.

PENALTIES AND PROCEDURE.

29. *Penalty for failure to surrender possession of evacuee property.*—Any person who fails to comply with a notice or demand by or on behalf of the Custodian under the provisions of this Act to surrender possession of any evacuee property shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

30. *Penalty for wrongfully paying or receiving rents, etc.*—Any person who pays to or receives from any other person any sum of money in respect of any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

Provided that nothing contained in this section shall apply to render punishable any payment made to or received by the Custodian.

31. *Penalty for concealing evacuee property.*—Any person who wilfully conceals any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

32. *Penalty for causing damage to evacuee property.*—Any person who wilfully destroys or causes damage to any evacuee property or unlawfully converts it to his own use shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

33. *Penalty for false declaration in certain cases.*—Any person who—

(*i*) for the purpose of obtaining an allotment or lease of any evacuee property, makes a declaration or statement which is false or which he either knows or has reason to believe to be false, or does not believe to be true, or

(*ii*) furnishes any return, account of information which is material to any of the purposes of this Act and which is false or which he either knows or has reason to believe to be false or does dot believe to be true,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

34. *Penalty for offences not expressly provided for.*—Any person who contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act, or makes default in complying with any requirement of this Act or of any rule or order made thereunder, shall, if no express provision is made by this Act for punishment of such contravention, obstruction or default, be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

35. *Penalty for offences committed by companies.*—If the person charged with an offence under this Act is a company or other body corporate, the director, manager, secretary or other officer of the company or other body corporate directly concerned in the management thereof shall, unless he proves that the offence took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

36. *Penalty for abetment.*—Any person who abets any of the offences punishable under this Act shall be punishable with the punishment provided for the offence.

37. *Offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be cognizable.

38. *Procedure for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the State Government or of any officer authorised in this behalf, by general or special order, by the State Government.

39. *Offences may be tried summarily.*—Any Magistrate empowered to try in a summary way the offences specified in sub-section (*1*) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may, if an application is made in this behalf by the complainant and the Magistrate thinks fit, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of that Code, but nothing contained in sub-section (2) of section 262 of that Code shall apply to any such trial.

CHAPTER VII

MISCELLANEOUS

40. *Restriction on transfer by evacuees.*—(1) No transfer of any right or interest in any property made in any manner whatsoever after the 14th day of August, 1947, by or on behalf of any person whose property is notified or declared to be evacuee property, shall be effective so as to confer any rights or remedies on the parties to such transfer or on any person claiming under them unless it is confirmed by the Custodian.

(2) An application for confirmation of such transfer may be made by the transferor or the transferee or any person claiming under, or lawfully authorised by, either of them to the Custodian within two months from the date of transfer or within two months from the commencement of this Act or within two months from the date of the notification or declaration referred to in sub-section (1), whichever is later.

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (2).

(4) The Custodian shall hold an inquiry into the application in the prescribed manner and may reject the application, if he is of opinion that—

(*a*) the transaction has not been entered into in good faith or for valuable consideration, or

(*b*) the transaction is prohibited under any law for the time being in force, or

(*c*) the transaction ought not to be confirmed for any other reason.

(5) If the application is not rejected under sub-section (4) the Custodian may confirm the transfer either unconditionally or subject to such terms and conditions as he thinks fit to impose.

41. *Prohibition of registration of documents in certain cases.*—(1) Where any document required to be registered under the Indian Registration Act, 1908 (XVI of 1908), purports to transfer any right or interest in any property in contravention of the provisions contained in section 20 or section 40, on registering officer shall register any such document and no revenue officer shall sanction any mutation of names in respect thereof, unless the party presenting the document for registration produces a certificate from the Custodian declaring that the property is not property belonging to an intending evacuee or that it is not evacuee property or that the transaction has been confirmed or that the Custodian has given his previous approval to the transfer.

(2) Save as otherwise expressly provided herein, nothing contained in sub-section (1) shall be deemed to affect the provisions contained in the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), or in any other law for the time being in force relating to the registration of documents.

42. *Submission of information to Custodian in respect of evacuee property.*—As soon as may be but not later than sixty days from the commencement of this Act, every person who is occupying, supervising or managing any property without the approval of the Custodian which he knows or has reason to believe to be evacuee property, shall submit to the Custodian or to any person authorized by him in this behalf full information relating to such property, including the date from which or the period during which he has been occupying, supervising or managing it, and a detailed account of the rents, profits, income or other benefits received from the said property from the date from which or for the period during which he has been occupying, supervising or managing it.

43. *Vesting of property in Custodian not affected by death of evacuee, etc.*—Where in pursuance of the provisions of this Act any property has vested in the Custodian, neither the death of the evacuee at any time thereafter nor the fact that the evacuee who had a right or interest in that property had ceased to be an evacuee at any material time shall affect the vesting or render invalid anything done in consequence thereof.

44. *Certain officers to be public servants.*—The Custodian-General, the Custodian and every other person duly appointed to discharge any duties imposed on them by this Act or the rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

45. *Powers of the Custodian while holding inquiry.*—For the purposes of holding any inquiry under this Act, the Custodian shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the discovery and production of documents ;

(*c*) any prescribed matter ;

and the inquiry by the Custodian shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the Custodian shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

46. *Jurisdiction of civil courts barred in certain matters.*—Save as otherwise expressly provided in this Act, no civil or revenue court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any property or any right to or interest in any property is or is not evacuee property; or

(*b*) to entertain or adjudicate upon any question whether any person is or is not an intending evacuee; or

(*c*) to question the legality of any action taken by the Custodian-General or the Custodian under this Act; or

(*d*) in respect of any matter which the Custodian-General or the Custodian is empowered by or under this Act to determine.

47. *Protection of action taken in good faith.*—(*1*) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or the Custodian or any person acting under the direction of the Custodian in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government, the State Government, the Custodian-General or the Custodian or any other person in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

48. *Recovery of arrears.*—Any sum due to the State Government or to the Custodian under the provisions of this Act may be recovered as if it were an arrear of land revenue.

49. *Record to be public documents.*—All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872 (I of 1872), and shall be presumed to be genuine until the contrary is proved.

50. *Notice of suits to the Custodian.*—(*1*) If in any suit it appears to the civil or revenue court that a question relating to the property of an evacuee or an intending evacuee is involved, the court shall not proceed to determine that question until after notice has been given to the Custodian.

(2) A court may, at any stage of a suit or proceeding, either on its own motion or on application made in this behalf by the Custodian, make an order that the Custodian shall be added as a party to the suit or proceeding, if the court is satisfied that such addition is necessary or proper for the satisfactory determination of the suit or proceeding.

51. *Fees payable to the Custodian.*—(*1*) The State Government may fix the fees payable to the Custodian for the management or disposal of any property vested in him.

(*2*) Such fees shall be payable out of the income or sale proceeds of such property and shall be a first charge on the property.

52. *Power to exempt.*—The Central Government may, by notification in the Official Gazette, exempt any person or class of persons or any property or class of property from the operation of all or any of the provisions of this Act.

53. *Power to give directions.*—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions contained in this Act or of any rules or orders made thereunder.

54. *Power of Central Government to take action with regard to evacuee property.*—The Central Government may, for the purpose of regulating the administration of any property which has vested in the Custodian under the provisions of this Act, pass such order or direct such action to be taken in relation thereto as, in its opinion, the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act.

55. *Delegation of powers.*—(1) The Central Government may direct that any power exercisable by it under this Act shall be exercisable also by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government as may be specified in the direction.

(2) The State Government may, by general or special order, direct that any power exercisable by it under this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by an officer subordinate to the State Government.

(3) Subject to the provisions of this Act and of the rules and orders made thereunder, the Custodian-General may delegate all or any of his powers under this Act to any Deputy or Assistant Custodian-General.

(4) Subject to the provisions of this Act and of the rules and orders made thereunder, the Custodian may delegate all or any of his powers under this Act to any Additional, Deputy or Assistant Custodian, subject to such conditions, if any, as may be specified by the Custodian.

56. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the terms and conditions of service of the Custodian-General ;

(*b*) the manner in which inquiries under this Act may be held ;

(*c*) the manner in which evacuee properties which have vested in the Custodian may be notified ;

(*d*) the manner in which possession of any evacuee property may be taken by the Custodian ;

(*e*) the manner in which any person claiming any right to, or interest in, any property which has been notified as evacuee property may have his claim registered and disposed of ;

(*f*) the manner in which any attachment may be made by the Custodian ;

(*g*) the manner in which trust properties which have vested in the Custodian may be administered or otherwise dealt with ;

(*h*) the circumstances in which, and the conditions subject to which, the Custodian may sell any immoveable property vested in him, and the procedure governing the grant of leases and the period for which leases may be granted ;

(*i*) the circumstances in which leases and allotments may be cancelled or terminated or the terms of any lease or agreement varied ;

(*j*) the securities in which the Custodian may invest any moneys held by him ;

(*k*) the manner in which any moneys due to the Custodian may be recovered :

(*l*) the form and manner in which books of accounts and other records shall be maintained by the Custodian ;

(*m*) the form in which any notice under this Act may be issued, the manner of its service and publication and the form in which any demand may be made by the Custodian ;

(*n*) the nature of cases and the circumstances in which and the conditions subject to which certificates for restoration of property under section 16 may be issued ;

(*o*) the nature of cases and the circumstances in which the Custodian may refer an applicant under section 16 to a civil court ;

(*p*) the powers vested in a civil court which may be exercised by the Custodian while holding any inquiry under this Act ;

(*q*) the nature of cases and the circumstances in which the Custodian may confirm or refuse to confirm a transfer under section 38 ;

(*r*) the form and manner in which and the time within which appeals and applications for revision may be preferred under Chapter V and the fees payable in respect thereof ;

(*s*) any other matter which has to be or may be prescribed under this Act.

(*3*) The State Government may, by notification in the Official Gazette, make rules providing for all or any of the following matters, namely :—

(*a*) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them ;

(*b*) the work to be performed by the Custodian and the Additional, Deputy and Assistant Custodians ;

(*c*) the delegation of powers of the Custodian to the Additional, Deputy or Assistant Custodian ;

(*d*) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid ;

(*e*) the persons by whom and the times at which books of account maintained under this Act may be inspected and audited.

57. *Temporary amendment of section 54 of the Indian Income-tax Act, 1922.*—During the continuance of this Act, sub-section (3) of section 54 of the Indian Income-tax Act, 1922 (XI of 1922), shall have effect as if after clause (*o*) thereof, the following clause had been inserted, namely :—

"(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act ".

58. *Repeal and Saving.*—(*1*) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), is hereby repealed.

(*2*) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), shall not affect the previous operation thereof, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under that Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.